

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

WAYNE WESLEY,

Plaintiff,

v.

NATIONAL MENTOR
HEALTHCARE, LLC

doing business as
Georgia Mentor,

Defendant.

CIVIL ACTION FILE
NO. 1:09-CV-978-TWT

ORDER

This is an employment discrimination action. It is before the Court on the Report and Recommendation [Doc. 16] of the Magistrate Judge recommending denying the Defendant's Motion to Dismiss [Doc. 5] treated as a Motion for Summary Judgment. The Court approves and adopts the Report and Recommendation as the judgment of the Court. The Defendant's Motion to Dismiss [Doc. 5] is DENIED. However, the Court expressly reserves ruling on the Defendant's claim of judicial estoppel in the event that the bankruptcy trustee abandons the action or recovers any sum in excess of that required to repay the Plaintiff's debts.

SO ORDERED, this 8 day of February, 2010.

/s/Thomas W. Thrash
THOMAS W. THRASH, JR.
United States District Judge